

# APPENDIX B

**APPENDIX “B”**

**LISTING OF DOCUMENTS  
CONSIDERED BY  
BRUCE G. DUBINSKY, MST, CPA, CFE, CVA, CFF, CAMS, MAFF**

Documents considered in connection with the Proof of Fraud/Insolvency expert report are all incorporated by reference into this report. Additionally, I have considered the pleadings in this case, as well as documents and other information produced by the parties to this case and gathered during my research. Accordingly, my report contains various footnote references and discussion of documents specifically relied upon by me in issuing my expert opinions in this case. The documents cited in my report and the following documents were considered by me in issuing my expert opinions in this report. Documents identified / named below are to be considered inclusive of any and all exhibits to the particular document.

**DOCUMENTS**

<b>ARTICLES</b>	
1.	Amir Efrati and Thomas Catan, <i>Santander, a ‘Feeder,’ Pays a Price</i> , Wall Street Journal, May 27, 2009.
2.	Dan Lalor and Andre Grenon, <i>HSBC fights Madoff Claim; new settlement reached</i> , Reuters, December 5, 2010.
3.	Michael Ocrant, <i>Madoff Tops Charts; Skeptics Ask How</i> , 89 MAR/Hedge, May 2001.
4.	Susan W. Lanham and Keri E. Lucas, “ <i>Reasonable Degree of Certainty</i> ” <i>During Expert Testimony</i> , Journal of Forensic & Investigative Accounting vol. 9, no. 3 (2017).

<b>BOOKS</b>	
5.	Shannon P. Pratt and Roger J. Grabowski, <i>Cost of Capital, Applications and Examples</i> (5th ed. 2014).

<b>STATUTES</b>	
6.	Investment Advisers Act of 1940 §206(4)-3.

#### ONLINE RESOURCES

7.	<i>Frontline Interview of Michael Bienes</i> , <a href="http://www.pbs.org/wgbh/pages/frontline/madoff/interviews/bienes.html">http://www.pbs.org/wgbh/pages/frontline/madoff/interviews/bienes.html</a> ; <a href="https://www.pbs.org/wgbh/frontline/film/madoff">https://www.pbs.org/wgbh/frontline/film/madoff</a> .
8.	<i>S&amp;P 100</i> , Standard & Poor's, <a href="https://us.spindices.com/indices/equity/sp-100">https://us.spindices.com/indices/equity/sp-100</a> .
9.	<i>Treasury Direct</i> , STRIPS, <a href="https://www.treasurydirect.gov/instit/marketablestrips/strips.htm">https://www.treasurydirect.gov/instit/marketablestrips/strips.htm</a> .

#### AGENCY RESOURCES

10.	Public Company Accounting Oversight Board, Auditing Standards, AS 2310: <i>The Confirmation Process</i> , <a href="https://pcaobus.org/Standards/Auditing/Pages/AS2310.aspx">https://pcaobus.org/Standards/Auditing/Pages/AS2310.aspx</a> .
11.	SEC Office of Inspector General Report of Investigation (August 31, 2009) and related exhibits ("OIG Exhibit"). <a href="https://www.sec.gov/news/studies/2009/oig-509.pdf">https://www.sec.gov/news/studies/2009/oig-509.pdf</a> ; <a href="https://www.sec.gov/news/studies/2009/oig-509/oig-509_exhibits.htm">https://www.sec.gov/news/studies/2009/oig-509/oig-509_exhibits.htm</a>

#### OTHER RESOURCES

12.	BLMIS Form BD - Uniform Application For Broker-Dealer Registration, January 2001.
13.	King Arthur Account Fact Sheet (undated) by Andrew Cooperman (OIG Exhibit 0115) <a href="https://www.sec.gov/news/studies/2009/oig-509/exhibit-0115.pdf">https://www.sec.gov/news/studies/2009/oig-509/exhibit-0115.pdf</a> .

#### PLEADINGS AND COURT DOCUMENTS

14.	Amended Complaint, <i>Picard v. Andover Associates (QP) LLC, et al.</i> , Adv. Pro. No. 10-05356 (SMB) (Bankr. S.D.N.Y., July 13, 2011), ECF No. 33.
15.	Amended Complaint, <i>Picard v. Andover Associates, L.P., et al.</i> , Adv. Pro. No. 10-05356 (SMB) (Bankr. S.D.N.Y. May 16, 2011), ECF No. 27.
16.	Amended Complaint, <i>Picard v. BNP Paribas Arbitrage SNC, et al.</i> , Adv. Pro. No. 12-01576 (SMB) (Bankr. S.D.N.Y. Aug. 30, 2017), ECF No. 100.
17.	Amended Complaint, <i>Picard v. Cardinal Management, et al.</i> , Adv. Pro. No. 10-04287 (SMB) (Bankr. S.D.N.Y. Jan. 15, 2019), ECF No. 118.
18.	Amended Complaint, <i>Picard v. Financiere Agache, et al.</i> , Adv. Pro. No. 10-04338 (SMB) (Bankr. S.D.N.Y. Jan. 25, 2012), ECF No. 25.
19.	Amended Complaint, <i>Picard v. Legacy Capital Ltd., et al.</i> , Adv. Pro. No. 10-05286 (SMB) (Bankr. S.D.N.Y. July 2, 2015), ECF No. No. 112.
20.	Amended Complaint, <i>Picard v. Square One Fund Ltd.</i> , Adv. Pro. No. 10-04330 (SMB) (Bankr. S.D.N.Y. Dec. 21, 2018), ECF No.167.
21.	Complaint for Preliminary & Permanent Injunctive & Other Equitable Relief, <i>SEC v. Avellino &amp; Bienes</i> , No. 92-CV-08314 (JES) (S.D.N.Y. Nov. 17, 1992) (OIG Exhibit 0120).
22.	Complaint, <i>Picard v. Avellino</i> , No. 10-05421 (BRL) (Bankr. S.D.N.Y. Dec. 10, 2010), ECF No. 1.
23.	Amended Complaint, <i>Picard v. Avellino</i> , No. 10-05421 (BRL) (Bankr. S.D.N.Y. November 24, 2014), ECF No. 86.
24.	Complaint, <i>Picard v. Citrus Investment Holdings Ltd., et al.</i> , Adv. Pro. No. 10-04471 (SMB) (Bankr. S.D.N.Y. Nov. 30, 2010), ECF No. 1.
25.	Complaint, <i>Picard v. Defender Limited, et al.</i> , Adv. Pro. No. 10-05229 (SMB) (Bankr. S.D.N.Y. Dec. 5, 2010), ECF No. 1.

**Expert Report of Bruce G. Dubinsky**  
**Appendix “B”**  
**Page 3 of 4**

<b>PLEADINGS AND COURT DOCUMENTS</b>	
26.	Complaint, <i>Picard v. Equity Trading Fund Limited, et al.</i> , Adv. Pro. No. 10-04457 (SMB) (Bankr. S.D.N.Y. Dec. 1, 2010), ECF No.2.
27.	Complaint, <i>Picard v. Fairfield Sentry Limited, Greenwich Sentry, L.P., et al.</i> , Adv. Pro. No. 09-01239 (SMB) (Bankr. S.D.N.Y. May 18, 2009), ECF No. 1.
28.	Proffered Second Amended Complaint, <i>Picard v. Fairfield Sentry Limited, Greenwich Sentry, L.P., et al.</i> , Adv. Pro. No. 09-01239 (SMB) (Bankr. S.D.N.Y. June 26, 2015), ECF No. 187.
29.	Complaint, <i>Picard v. Harley International (Cayman) Limited, et al.</i> , Adv. Pro. No. 09-01187 (SMB) (Bankr. S.D.N.Y. May 12, 2009), ECF No. 1.
30.	Complaint, <i>Picard v. Maxam Capital Management, et al.</i> , Adv. Pro. No. 10-05342 (SMB) (Bankr. S.D.N.Y. Mar. 4, 2011), ECF No. 4.
31.	Complaint, <i>Picard v. Mount Capital Fund Ltd., et al.</i> , Adv. Pro. No. 10-05123 (SMB) (Bankr. S.D.N.Y. Dec. 2, 2010), ECF No. 1.
32.	Complaint, <i>Picard v. Oreades SICAV, et al.</i> , Adv. Pro. No. 10-05120 (SMB) (Bankr. S.D.N.Y. Dec. 2, 2010), ECF No. 1.
33.	Complaint, <i>Picard v. Plaza Investments International Limited, et al.</i> , Adv. Pro. No. 10-04284 (SMB) (Bankr. S.D.N.Y. Nov. 23, 2010), ECF No. 1.
34.	Complaint, <i>Picard v. Tremont Group Holdings, Inc., et al.</i> , Adv. Pro. No. 10-04930 (SMB) (Bankr. S.D.N.Y. Dec. 7, 2010), ECF No.1.
35.	Amended Complaint, <i>Picard v. Tremont Group Holdings, Inc., et al.</i> , Adv. Pro. No. 10-05310 (SMB) (Bankr. S.D.N.Y. Feb. 28, 2011), ECF No. 4.
36.	Complaint, <i>Picard v. Trotanoy Investment Company, Ltd., et al.</i> , Adv. Pro. No. 10-05208 (SMB) (Bankr. S.D.N.Y. Dec. 3, 2010), ECF No. 1.
37.	Fourth Amended Complaint, <i>Picard v. Kingate, et al.</i> , Adv. Pro. No. 09-01161 (SMB) (Bankr. S.D.N.Y. Mar. 17, 2014), ECF No.100.
38.	Order of Preliminary Injunction and Other Equitable Relief on Consent, <i>SEC v. Avellino &amp; Bienes</i> , No. 92-CV-08314 (JCK) (S.D.N.Y. Nov. 18, 1992) (OIG Exhibit 0121).
39.	Plea Agreement, <i>United States v. Irwin Lipkin</i> , S9 10-CR-228 (LTS) (S.D.N.Y. Nov. 8, 2012).
40.	Plea Allocution, <i>United States v. Bernard L. Madoff</i> , 09 CR 213 (DC) (S.D.N.Y. Mar. 12, 2009).
41.	Plea Allocution, <i>United States v. David Kugel</i> , 10 CR 228 (LTS) (S.D.N.Y. Nov. 21, 2011).
42.	Plea Allocution, <i>United States v. Enrica Cotellessa-Pitz</i> , S5 10-CR-228 (LTS) (S.D.N.Y. Dec. 19, 2011).
43.	Proffered Amended Complaint, <i>Picard v. Luxembourg Investment Fund, et al.</i> , Adv. Pro. No. 10-05311 (SMB) (Bankr. S.D.N.Y. June 26, 2015), ECF No. 221.
44.	Second Amended Complaint, <i>Picard v. Alpha Prime Fund Limited, HSBC, et al.</i> , Adv. Pro. No. 09-01364 (SMB) (Bankr. S.D.N.Y. Sept. 24, 2019), ECF No. 567.
45.	Second Amended Complaint, <i>Picard v. Thybo Asset Management Limited, et al.</i> , Adv. Pro. No. 09-01365 (SMB) (Bankr. S.D.N.Y. Feb. 10, 2011), ECF No. 20.
46.	Second Amended Complaint, <i>Picard v. UBS AG, et al.</i> , Adv. Pro. No. 10-04285 (SMB) (Bankr. S.D.N.Y. June 26, 2015), ECF No. 210.
47.	Second Amended Complaint <i>Picard v. Vizcaya Partners, et al.</i> , Adv. Pro. No. 09-01154 (SMB) (Bankr. S.D.N.Y. June 26, 2015), ECF No. 115.
48.	Third Amended Complaint, <i>Picard v. Ascot Fund Ltd., et al.</i> , Adv. Pro. No. 09-01182 (SMB) (Bankr. S.D.N.Y. Aug. 30, 2013), ECF No. 151.
49.	Trial Transcripts, <i>Picard v. Carol Nelson and Stanley Nelson</i> , Adv. Pro. Nos. 10-04658, 10-04377 (Bankr. S.D.N.Y. May 8-9, 2019), ECF Nos. 181, 178.

**Expert Report of Bruce G. Dubinsky**  
**Appendix “B”**  
**Page 4 of 4**

**PLEADINGS AND COURT DOCUMENTS**

50.	Trial Transcripts, <i>United States of America v. Daniel Bonventre, Jerome O’Hara, George Perez, Annette Bongiorno, Joann Crupi</i> , 10 Cr. 228 (LTS) (S.D.N.Y. October 31, 2013; November 12, 2013; November 19, 2013; December 2, 2013; December 4, 2013; December 5, 2013; February 25, 2014; February 27, 2014).
-----	---

**INVESTMENT DATA**

51.	Bloomberg – Historical Equity Data.
52.	Center for Research in Security Prices (CRSP) Data (October 1979 through December 2008).
53.	Moody’s Industrial Manual, <i>Textron Inc.</i> (1992).

**DEPOSITIONS**

54.	Andrew Copperman Deposition January 10, 2020.
55.	Annette Bongiorno Deposition December 12, 2019.
56.	Bernard Madoff Deposition October 19, 2015, <i>P&amp;S Associates v. Jacob</i> , No. 12-034123 (07) (Cir. Ct., 17th Judicial Circuit, Broward County, Florida).
57.	Bernard Madoff Deposition November 13, 2019.
58.	Dianne Bienes Deposition November 7, 2019.
59.	Eric Lipkin Deposition January 14, 2020.
60.	Frank Avellino & Michael Bienes Deposition July 07, 1992, <i>In the Matter of King Arthur</i> , No. MNY-1490 (Before the SEC) (OIG Exhibit 0117).
61.	Frank Avellino Deposition November 20, 1992 and November 24, 1992, <i>SEC v. Avellino &amp; Bienes</i> (S.D.N.Y.) (OIG Exhibit 0124; OIG Exhibit 0125).
62.	Frank Avellino Deposition November 20, 2019 & November 21, 2019.
63.	Jo Ann Crupi Deposition January 30, 2020.
64.	Joseph Avellino Deposition December 13, 2019.
65.	Nancy Avellino Deposition November 21, 2019.
66.	Thomas Avellino Deposition January 29, 2020.

**STRUCTURED DATA**

67.	SQL Compilation of BLMIS Data.
-----	--------------------------------

**ADDITIONAL DOCUMENTS CONSIDERED**

68.	See attached Schedule 1.
-----	--------------------------